



REBECCA OTTO  
STATE AUDITOR

# STATE OF MINNESOTA

## OFFICE OF THE STATE AUDITOR

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March 30, 2007

Rob M. Anderson, Director  
Mountain Lake Economic Development Authority  
930 Third Avenue, Drawer C  
Mountain Lake, Minnesota 56159

Dear Mr. Anderson:

As we discussed, the Office of the State Auditor received an inquiry regarding a 2006 loan the Mountain Lake Economic Development Authority (the EDA) issued to a nine-hole golf course in the area. Specifically, a question was raised about whether the EDA had the authority to provide a loan to a non-profit entity located outside the geographic boundaries of the City of Mountain Lake (City). We know of no authority allowing the EDA to operate outside the City limits.

### **Background**

In May 2006, the EDA issued a \$60,000 loan to Mountain Lake Golf Development, Inc. (borrower) for the Mountain Lake Golf Course. The EDA loan has a ten-year term and an interest rate of five percent. The first annual repayment installment from the borrower is due in May 2007. You verified that the golf course is located on Lakeshore Drive, outside the City limits. The borrower is a non-profit corporation.<sup>1</sup>

### **Authority to Operate**

Generally, an economic development authority has broad authority to grant an economic loan to a business, a for-profit or non-profit organization, or an individual. *See* Minn. Stat. § 469.192. However, based on the EDA's Enabling Resolution and Minnesota law it appears that the EDA's scope of activities is restricted to development within the geographic boundaries of the City.

In 1989, the City Council executed an Enabling Resolution creating a city-based economic development authority.<sup>2</sup> The EDA was given the powers of an economic

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<sup>1</sup> Mountain Lake Golf Development, Inc. is listed as a non-profit corporation on the Minnesota Secretary of State's Office website, <http://www.sos.state.mn.us>.

<sup>2</sup> City of Mountain Lake Resolution No. 7-89, "Resolution Establishing the Mountain Lake Economic Development Authority Pursuant to the Provisions of Minnesota Statutes, Chapter 469" (Enabling Resolution), Section 1, dated July 5, 1989.

development authority, a housing and redevelopment authority, and an agency for a city development district.<sup>3</sup> Notably, the Enabling Resolution stated that the EDA's role and responsibility was to carry out economic, housing and industrial development and redevelopment "within the city."<sup>4</sup> It is also significant that the City gave the EDA many powers, but did not include the power to operate in a rural area as a municipal or area redevelopment agency.<sup>5</sup>

Minnesota law also appears to confine the activities of a city-based development authority to the corporate limits of a city. For example, the operation area of a city HRA is defined as the "area within the territorial boundaries of that city."<sup>6</sup> Further, a city EDA is able to create an economic development district at any place "within the city."<sup>7</sup>

## Conclusion

The Office of the State Auditor is not aware of any authority that would allow the EDA to operate outside the City limits. We recommend that the EDA avoid similar loan agreements in the future. If you have any questions regarding this matter, please feel free to contact me at (651) 297-7108 or by email at [Terrilyn.Diamond@state.mn.us](mailto:Terrilyn.Diamond@state.mn.us).

Sincerely,

*/s/ Terrilyn Diamond*

Terrilyn L. Diamond, Attorney  
Office of the State Auditor

Cc: The Honorable Dean Janzen  
Mayor, City of Mountain Lake

Mr. Kyle Meyers  
Abdo, Eick & Meyers LLP

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<sup>3</sup> Enabling Resolution at Sections 1 and 10. *See* Minn. Stat. §§ 469.090 – 469.1082 (economic development authority); 469.001 – 469.047 (housing and redevelopment authority); 469.124 – 469.134 (city development district).

<sup>4</sup> Enabling Resolution at Section 1. *See also* Enabling Resolution at Whereas Clauses 3, 4 and 5 (references to development "within the city"); Section 11. C. (all EDA actions must be consistent with City's comprehensive plan).

<sup>5</sup> *See* Minn. Stat. §§ 469.109 – 469.123.

<sup>6</sup> *See* Minn. Stat. § 469.002, subd. 8.

<sup>7</sup> *See* Minn. Stat. § 469.101, subd. 1.